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Dated: July 13, 2004

Signature: \_\_\_\_\_

(Jonathan A. David)

Docket No.: SONY 3.0-053  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Julian David Waldman

Application No.: 09/888,352

Group Art Unit: 3627

Filed: June 22, 2001

Examiner: A. J. Rudy

For: APPARATUS AND METHOD FOR  
IDENTIFYING AND PURCHASING MUSIC

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Action mailed on June 17, 2004, setting forth a Restriction Requirement in the above-identified application.

In the Office Action, the Examiner required restriction to one of the following sets of claims under 35 U.S.C. § 121:

I. Claims 1-13, 28-38, 40 and 41, drawn to a portable communications device, classified in class 455, subclass 566.

II. Claims 14-26 and 39, drawn to a method of identifying and purchasing a full audio work, classified in class 705, subclass 26.

III. Claims 27 drawn to a system for identifying and purchasing a full audio work, classified in class 235, subclass 383.

With respect to the above-identified groups, it appears that the Examiner erroneously grouped claims 16-26 with the method claims of Group II, as claims 16-26 are

drawn to portable communications *devices*, rather than methods of identifying and purchasing full audio works.

In any event, Applicant hereby elects Group I (assuming claims 16-26 are included therein), and in particular elects the species of claims 18-26, given that claims 16 and 18 of claims 16-26 were identified as distinct species by the Examiner in Paragraph 6 of the Office Action. Applicant reserves the right to file one or more divisional applications corresponding to non-elected claims.

In the event any fee is due in connection with the present response, the Examiner is authorized to charge Applicant's Deposit Account No. 12-1095 therefor.

Dated: July 13, 2004

Respectfully submitted,

By 

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